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Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Supplementary reports of States parties due in 1992

Addendum

HUNGARY*

[23 September 1992]

I. GENERAL OBSERVATIONS

1. During the reporting period Hungarian society has undergone a deep and profound change. A pluralist society, a functioning democracy and the rule of law replaced the communist one-party system and the corresponding social and political order. The new Government, which took office after the pluralist parliamentary elections of April 1990, has sought to enhance the functioning of human rights mechanisms in Hungary by, inter alia, institutional changes. Respect for human rights and fundamental freedoms has been a major driving force of the democratic transition, which has taken place in Hungary within legal frameworks. As part of the political and social change, the ongoing legislative process is resulting in a profound transformation of Hungary's legal system.

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* The initial report submitted by the Government of Hungary is contained in document CAT/C/5/Add.9; for its consideration by the Committee, see documents CAT/C/SR.34 and 35 and the Official Records of the General Assembly, forty-fifth session, Supplement No. 44 (A/45/44), paras. 280-312

2. Act XXXI of 1989 amending the Hungarian Constitution (Act XX of 1949) introduced a new chapter (XII) on "Fundamental Rights and Duties", which are regulated in accordance with the letter and the spirit of international obligations concerning the observance of human rights. Its wording is in conformity with that of the International Covenant on Civil and Political Rights. (Hungary has submitted its third periodic report on the status of implementation of the Covenant to the Human Rights Committee as recently as October 1991). The rights guaranteed by the Constitution as the basic law are specified and given effect by a number of relevant enactments, newly adopted or amended. The Criminal Code, the Civil Code, the Code on Criminal Procedure, the Code on Civil Procedure, the Rules on the Enforcement of Punishments, the Labour Code and the Family Law have been modified accordingly.

3. The establishment of the Constitutional Court was a cornerstone of introducing the rule of law (Chapter IV of the Constitutional in Act XXXI of 1989). The functions of the Constitutional Court include reviewing the constitutionality of legislation and ex ante examination of the unconstitutionality of draft laws with a view to preventing Parliament adopting legislative enactments contrary to the Constitution. The Court annuls laws and regulations found unconstitutional, whereas ex ante control serves to prevent the entry into force of those contrary to the Constitution. On the other hand, the Constitutional Court has jurisdiction to consider constitutional complaints. Any person may lodge a constitutional complaint with the Constitutional Court alleging that he/she has been injured by the application of an unconstitutional provision of law in respect of his/her rights and that no other remedy is available or remedies have been exhausted (art. 48/1/ of the Act on the Constitutional Court).

4. New acts have been adopted on the freedom of conscience and religion as well as on the church (Act IV of 1990), the freedom of association (Act II of 1989), the freedom of assembly (Act III of 1989), the right to strike (Act VII of 1989), the functioning and finances of political parties (Act XXXIII of 1989), referendum and people's initiative (Act XVII of 1989), electoral law (Act XXXIV of 1989 on the Election of Members of Parliament and Act LVI of 1990 on the Election of Representatives of Local Self-Government and Mayors), local self-governments (Act LXV of 1990), travel abroad and passports (Act XXVIII of 1989), emigration and immigration (Act XXIX of 1989). The bills on the press and minorities are scheduled to be considered by Parliament in the fall of 1992.

5. It should be noted that in June 1989 Hungary became a party to the Convention relating to the Status of Refugees of 1951 and to the Protocol of 1967.

6. An event of special relevance to the Convention during the reporting period was the Constitutional Court's Decision No. 23/1990 (X.31.) establishing the unconstitutionality of the death penalty as a kind of punishment. Accordingly, the Court annulled the relevant provisions of the Criminal Code and the Code on Criminal Procedure (Act I of 1973) and ordered a revision of criminal proceedings in which final judgements imposing the death penalty had not yet been carried out. The Court stated that capital punishment was contrary to the constitutional provisions prohibiting limitation on the main substance of the right to life and human dignity (Art. 8/2/ and Art. 54/1/ of the Constitution).

7. It should be noted, however, that this kind of punishment, although its regulation was in accordance with the requirements laid down in the relevant article of the International Covenant on Civil and Political Rights, was rarely applied and imposed only for the most serious crimes, and furthermore that no death sentence had been carried out in Hungary since 1989. However, the mere existence of the death penalty was found to be incompatible with the standards of a penal system based on European principles.

8. In this regard, mention should also be made of the initiatives currently being taken to prepare Hungary's accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty.

9. An important development of the reporting period is that the Republic of Hungary has withdrawn its reservations concerning articles 20 and 30 (1) of the Convention and that it has recognized by a declaration the competence of the Committee against Torture in the cases enumerated in articles 21 and 22 of the Convention. The relevant instruments were deposited with the Secretary-General of the United Nations on 13 September 1989. These changes called for an amendment to Law-Decree No. 3 of 1988 promulgating the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Adopted by Parliament on 23 July 1990, Act LIX of 1990 repealed, with retroactive effect to 13 September 1989, that specific article of the Law-Decree which contained the aforementioned reservations.

10. The withdrawal of reservations and the making of the declaration form an integral part of the process in which Hungary is committed to accept the widest possible scale of control mechanisms of the United Nations and other multilateral fora like the Council of Europe and the Conference on Security and Cooperation in Europe (CSCE) process. Thus, in September 1988 Hungary recognized the competence of the Human Rights Committee, set up by the International Covenant on Civil and Political Rights, to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Covenant. Also in September 1988, it became a party to the First Optional Protocol to the Covenant, which was promulgated and made part of domestic law by Law-Decree No. 24 of 1988. Similarly, in September 1989, the Republic of Hungary withdrew its reservation concerning the provision of the International Convention on the Elimination of All Forms of Racial Discrimination under which any dispute between two or more States parties with respect to the interpretation or application of this Convention which is not settled by negotiation or by the procedures expressly provided for in the Convention shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement. It also declared that it recognized the competence of the Committee set up by the Convention to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State party of any of the rights set forth in the Convention. Accordingly, that specific article of the promulgating Law-Decree No. 8 of 1969 containing the above reservation was modified by Act LXXX of 1991.

11. In the near future the Republic of Hungary intends to ratify the Council of Europe Convention for the Protection of Human Rights and Fundamental

Freedoms, which it signed in November 1990. Preparations are also under way for Hungary's accession to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

II. INFORMATION RELATING TO EACH OF THE ARTICLES IN PART I OF THE CONVENTION

Article 1

12. There was no new development during the reporting period.

13. The content of the definition of "torture" as established by the Convention is applied by Hungarian penal law.

Article 2

14. Act XXVI of 1989 established significant guarantees in respect to coercive measures applicable in criminal proceedings and to observation of mental state as a means of evidence involving deprivation of liberty. Under the new regulation ordering such measures is exclusively reserved for the court in each phase of the proceeding, whereas under the previous regulation decision was made by the prosecutor until the filing of the indictment.

15. The legality of evidence is covered by article 60 of the Code on Criminal Procedure, paragraph 2 prohibiting unlawful means of evidence ("No person shall be forced to make a confession under duress and threats or in any similar manner"), but it failed to provide any procedural sanction of a general nature against such methods. Act XXVI of 1989 amending the Code on Criminal Procedure fills that gap by inserting a third paragraph in article 60 of the Code, under which no proof of evidence obtained in the course of a procedure contrary to law can be taken into account as evidence.

16. Act LIV of 1989 amending the Criminal Code abolished aggravated detention as a punishment of crime because it constituted deprivation of liberty for an indefinite period after a sentence of imprisonment had been served, since it was not in accordance with the principle of a humane penal system.

17. Act XIV of 1990 abolished the treatment of alcohol addicts in an institute for work therapy as a form of compulsory treatment.

18. Mention should be made of Decree No. 8/1990 (IV.27.) of the Minister of Justice, which guarantees the exercise of religion by convicts in penitentiary institutes. Accordingly, convicts must be allowed to take part in religious worship, to receive care of the soul, to keep devotional objects and religious books, and to have a church wedding, baptism and church funeral. They may be free to communicate with the pastor.

19. The decree of the Minister of the Interior on enforcing detention and arrest in the station house was likewise supplemented by a provision allowing detainees to receive care of the soul by the pastor of their church, to have unhindered contact with the pastor and to exercise their religion in community with others. The personal belongings of detainees may include devotional objects necessary for the exercise of religion, but not jeopardizing the

security of custody. However, exercise of these rights may not prejudice the orders and normal functioning of the court, the prosecutor and the investigating authority or the interests of criminal procedure.

20. The comprehensive reform of the law governing the enforcement of punishments is under preparation. In July 1991 the Minister of Justice submitted to the Government the principles governing amendments to Law-Decree No. 11 of 1979 on the Enforcement of Punishments and Measures. Since the proposals were adopted, the Ministry of Justice drafted a bill, which - at the time of preparing the report - is in the final stage of elaboration and will soon be considered by the Government.

21. The draft bill in regulating the rights of convicts is in line with Hungary's international obligations. As a general rule, it recognizes the rights of convicts to protection of their reputation, privacy, including the inviolability of the privacy of their homes, and non-discrimination on grounds of nationality, race, religious or political opinion, social origin or property status.

22. In the Hungarian legal system, the law enforcement functions of the court are performed by judges in charge thereof at the county courts and the Metropolitan Court. The proceedings differ in several aspects from those before the trial court and thus unreasonably narrow the rights of convicts. Therefore, the draft bill essentially widens their rights by providing that the defence counsel may be present at the hearing of convicts before the law enforcement judges and that convicts may appeal against all decisions of such judges.

23. In accordance with the Convention, the draft bill provides that convicts must be treated with respect for human dignity and cannot be subjected to torture or to cruel, inhuman or degrading treatment, or to any kind of medical treatment or scientific experiment without their free consent.

24. The rights and duties of convicts serving sentences of imprisonment are reregulated by the bill. Among the rights special mention is made of the rights to hygienic accommodation, adequate health care, food and pension appropriate to activities during prison service, necessary care in case of illness and disability, submission of complaints, applications and statements to an organ independent of law enforcement, correspondence with relatives, reception of visitors at least once a month, expression of religious belief or exercise of the freedom of conscience, protection of rights to personal property, rest, leisure and, in the case of foreign nationals, to contact the diplomatic or consular representation of their respective States. A new provision permits convicts to visit seriously ill relatives and to be present at their burial with or without supervision.

25. Among disciplinary punishments imposed on convicts for culpable violation of penitentiary rules, the bill abolishes the prohibition of convicts from receiving packages and visitors, reductions in remuneration, and their assignment to a disciplinary division applying stricter rules. The right of convicts to lodge an appeal with the law enforcement judge against a disciplinary decision of the penitentiary authority affords increased protection for the rights of convicts.

26. The Hungarian system of law applies three degrees in executing sentences of imprisonment: convict prison (strictest regime), common prison and house of detention (least severe regimes). While maintaining this system, the bill relaxes some unjustifiably strict rules of convict prisons (e.g. entitles convicts to not more than five days of leave annually) and extends to convicts having served a fixed period of imprisonment in a house of detention and exceptionally in a common prison (at least three and six months, respectively) the benefit of less severe penitentiary rules ("semi-free" regime of enforcement) at the discretion of the law enforcement judge.

27. Among the draft rules concerning criminal law, mention should be made of the increase in the quantum of punishment for unlawful detention. (As was extensively discussed in the previous report, torture as defined by the Convention is penalized by Hungarian criminal law in the category of offences of officials such as physical abuse (Art. 226), questioning under duress (Art. 227) and unlawful detention (Art. 228 of the Criminal Code)). Under the current regulation, the punishment of perpetrators of unlawful detention is imprisonment for a term of up to three years or, if the crime was committed for a base motive or purpose, by torturing the injured person or by causing grave consequence, of one year to five years. The respective scales of punishment as proposed by the bill will be extended to terms of five years and, in aggravated cases, of two to eight years.

Article 3

28. The new bill on aliens, with specific regard to the relevant article of the Convention, spells out that the permit of stay of eliens or stateless persons must not be withdrawn or such persons must not be expelled to a country where they are likely to be exposed to torture.

Articles 4 and 5

29. There was no change in the regulations or any new development during the reporting period.

Article 6

30. Regarding this article of the Convention, reference should be made to paragraph 14 above. The provisions of Act I of 1973 on Criminal Procedure relating to arrest and detention were substantially modified by Act XXVI of 1989:

(a) The maximum duration of detention was extended from 72 hours to 5 days, but detention must be terminated within 72 hours unless arrest has been proposed by the prosecutor. The authority must notify detention without delay to the person designated by the suspect;

(b) Arrest and extension of its duration may be ordered exclusively by the court, but the prosecutor may also terminate it before the filing of the indictment. The arrested may communicate with his/her defence counsel before the first hearing, as well.

31. For an even more comprehensive view of the implementation of paragraph 1 of this article, the previous report is to be supplemented with the following aspects.

32. A person may be arrested if he/she is reasonably suspected of having committed a crime punishable with imprisonment and if the additional statutory conditions for arrest exist (namely (a) the defendant has escaped, is in hiding or, owing to the gravity of the crime or for any other reason, there is fear of his/her escape or going into hiding, (b) there is reasonable ground to assume that, when left at large, he/she might impede or jeopardize the proceedings, (c) during the proceedings he/she has committed another crime punishable with imprisonment or there is reason to believe that, when left at large, he/she might carry out an attempted or prepared crime or commit another crime). Considering that all offences of officials - torture as defined by the Convention penalized by Hungarian criminal law in the category of misuse of authority, physical abuse, questioning under duress and unlawful detention - are punishable with imprisonment, arrest may be ordered if the other statutory conditions for it are present.

33. With special attention to the Committee's interest for further information on the legal regulation of extradition, expressed at its consideration of the previous report, the following should be added to what has already been reported.

34. Under article 390 of the Code on Criminal Procedure, provided that extradition is justified, the court must order the arrest for purposes of extradition of the person wanted if a foreign authority requests extradition and attached to its rogatory letters a warrant of arrest, a sentence or any other decision of similar effect. This is the so-called arrest for purposes of extradition. Also, before receipt of a request for extradition, the court must order arrest when extradition is justified and the foreign authority requests it without the aforementioned enclosures, provided that delay involves risks. The writ ordering arrest must be transmitted to the Minister of Justice.

35. Arrest for purposes of extradition may last not more than three months and it must be terminated if a request meeting the conditions specified above is not received within three months from the enforcement of arrest. In any other case, release of a person under arrest is exclusively subject to the decision of the Minister of Justice.

36. In the cases indicated above, the person wanted for extradition may, for the purpose of being brought before the court, be taken into custody by the police for 72 hours.

37. The Metropolitan Court has exclusive jurisdiction in cases of extradition. It examines the request, hears the person wanted for extradition, obtains the statement of the prosecutor and submits the records together with its report to the Minister of Justice, who is empowered to decide on extradition and to have his/her decision enforced.

38. These provisions are to be applied in case of absence of contrary rules of an international treaty or unless otherwise accepted by reciprocity.

Articles 7 to 12

39. There was no change in the regulations or any new development during the reporting period.

Article 13

40. Regarding the protection of complainants and witnesses, the previous report is to be supplemented with the following: these persons are accorded fuller protection by the rule that, while investigations are made by the police in general, cases against the police must be investigated by the prosecutor's office.

Article 14

41. There was no change in the regulations or any new development during the reporting period.

Article 15

42. As indicated in paragraph 15 above, an important development in respect of this article is represented by Act XXVI of 1989 inserting paragraph 3 in article 60 of the Code on Criminal Procedure on the legality of the taking of evidence, under which no proof of evidence obtained in the course of procedure contrary to the Code must be taken into account as evidence.

Article 16

43. There was no change in the regulations or any new development during the reporting period.

III. STATISTICS

44. Available statistical data for sentencing by the courts are as follows:

(a) Number of policemen sentenced in 1989-90:

	1989	1990
for physical abuse by official	10	1
for questioning under duress	11	4
for unlawful detention	2	2

(b) As regards staff members of penitentiary institutes, in 1989 one person was sentenced for grave bodily injury to a convict and for physical abuse in official proceedings.

Annex

The Constitution of the Republic of Hungary*

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* The text of the Constitution, as received in English from the Government of Hungary, is available for consultation in the files of the United Nations Centre for Human Rights.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

First supplementary reports due in 1992

Addendum

SWEDEN*

[30 September 1992]

Introduction

1. The Swedish Government submitted its initial report in June 1988 (CAT/C/5/Add.1) regarding the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Part I of the initial report contained general information on, inter alia, relevant international instruments ratified by Sweden. In addition to the instruments mentioned in that report, it should be noted that Sweden on 11 May 1990 ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. In this context, reference should also be made to the so-called "core document" on Sweden (HRI/CORE/1/Add.4).

* For the initial report of Sweden, see CAT/C/5/Add.1; for its consideration, see CAT/C/SR.10 and 11 and Official Records of the General Assembly, forty-fourth session, Supplement No. 46 (A/44/46), paras. 39-75.

2. It should also be mentioned that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Sweden on 5 to 14 May 1991. The information gathered by the CPT's delegation during its visit showed that there were no allegations that persons deprived of their liberty had been subjected to ill-treatment amounting to torture within any of the places of detention visited, nor was any other evidence of torture found.

I. INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

3. The information supplied in Sweden's initial report still applies with reference to articles 2, 5, 6, 7, 8, 9, 11, 12, 13, 14 and 15 of the Convention.

Article 3

4. In the introduction to the initial report (para. 42) before the Committee against Torture (CAT/C/SR.10, para. 6) revisions were foreseen in the Swedish Alien Act. A new Aliens Act came into force on 1 July 1989. The fundamental principles in the Swedish refugee and immigrant policy are, however, the same.

5. The Act stipulates that a refugee shall not without extraordinary reasons be refused asylum in Sweden, should he need it. Chapter 3, section 1 (the term asylum) reads as follows:

> "The term asylum as used in this Act refers to a residence permit awarded to an alien because (1) he is a refugee, (2) he is a war-resister, or (3) without being a refugee, he is unwilling to return to his country of origin on account of the political situation there and is able to plead very strong grounds in support of this."

Section 2 (the term refugee) reads as follows:

> "The term refugee as used in this Act refers to an alien who is outside the country of his nationality owing to the well-founded fear of being persecuted for reasons of race, nationality, membership of a particular social group, or religious or political opinion, and who is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."

Section 3 (the term war-resister) reads as follows:

> "The term war-resister as used in this Act refers to an alien who has deserted of war or fled from his country of origin or needs to remain in Sweden in order to escape imminent war service."

Section 4 (the right to asylum) reads as follows:

> "An alien as referred to in Section 1 is entitled to asylum. Asylum may, however, be refused if
>
> 1. in view of what is known concerning the alien's previous activities, or out of consideration for national security, there are exceptional grounds for not granting asylum,
>
> 2. there are special grounds for not granting asylum in the case of an alien coming under Section 1 (2) or (3),
>
> 3. the alien has entered Sweden from Denmark, Finland, Iceland or Norway and can be returned to any of these countries in accordance with an agreement between Sweden and that country, unless it is obvious that he will not be granted a residence permit there,
>
> 4. the alien has otherwise, before coming to Sweden, stayed in a country other than his country of origin and, if returned there, will be protected from persecution or, as the case may be, from being sent to a theatre of war or to his country of origin and also from being sent on to another country where he does not have corresponding protection or
>
> 5. the alien has special links with another country and is protected there in the manner referred in paragraph 4.
>
> The Government may prescribe exceptions to subsection two, paragraph 4, in cases where the alien's links with Sweden are of such a kind that he should not be denied the opportunity of having his asylum application examined here."

6. The provisions in the old Aliens Act of 1980 concerning the enforcement of expulsion orders are substantially the same in the new Act. However, because Sweden has ratified the Convention against Torture, the enforcement provisions now include a prohibition against sending an alien to a country where he runs the risk of being subjected to torture. Chapter 8, section 1, of the Act reads as follows:

> "An alien refused entry or expelled may never be conveyed to a country where there is firm reason to believe that he would be in danger of suffering capital or corporal punishment or of being subjected to torture, nor to a country where he is not protected from being sent on to a country where he would be in such danger."

(See also the comments below regarding article 16).

Article 4

7. In the introduction to the initial report (para. 41) before the Committee against Torture information was presented (CAT/C/SR.10, para. 7) about a proposal regarding the offence "misuse of authority" whereby an offence did not have to cause damage in order to be punishable under the Penal Code. An amendment to the Penal Code to this effect, which has a bearing on article 4

of the Convention, entered into force in October 1989. The new reading of section 1 is as follows:

> "A person who in the exercise of public authority by act or by omission wilfully or through negligence disregards the duties of his office shall be sentenced for misuse of office to pay a fine or to imprisonment for at most two years. If in view of the offender's powers of office, or in view of the nature of his office as related to his exercise of public authority in other respects, or if in view of other circumstances the offence may be regarded as petty, no sentence shall be passed.
>
> Should an offence of the foregoing paragraph have been committee wilfully and must be regarded as serious, the offender shall be sentenced for gross misuse of office to imprisonment for at least six months and at most six years. In assessing the gravity of the offence, special consideration shall be given to whether the offence occasioned substantial harm or improper benefit for an individual or for the public sector.
>
> No member of a decision-making national or municipal assembly shall be held liable under the provisions of paragraphs 1 or 2 of this Section for any action he may take in that capacity.
>
> The provisions of paragraphs 1 and 2 of this Section shall not apply if the offence is punishable under some other law or enactment."

Article 10

8. The information in the initial report (paras. 74-77) still applies.

9. With reference to the questions asked by members of the Committee (CAT/C/SR.10, para. 24) and to the answer provided (CAT/C/SR.11, para. 17), the following should be noted.

10. The Police Academy teaches students about human rights-related issues. The education programme includes the United Nations human rights instruments, the European Human Rights Conventions and the United Nations Code of Conduct for Law Enforcement Officials of 17 December 1979. Furthermore, training is performed in several other subjects with a bearing on the human rights instruments such as psychology, criminology and ethics. On a trial basis a special programme is performed in the elementary training course on the subject torture, which includes a thorough study of the Convention against Torture.

11. The National Police Board (Rikspolisstyrelsen) is elaborating a special training programme on the subject of torture with a view to training security guards, patrolmen and night watchmen.

12. The Public Prosecution Authorities (Åklagarmyndigheterna) report regularly about issues relating to human rights in general.

13. The National Prisons and Probation Administration (Kriminalvårdsstyrelsen) provides information on human rights and torture. The training of the staff also includes the European Prison Rules (adopted by the Committee of Ministers of the Council of Europe in 1987).

14. At the National Defence College (Försvarshögskolan) training is compulsory in human rights-related issues as well as in humanitarian law.

15. Sweden now has several centres with special competence for care and rehabilitation of refugees and immigrants who have been subjected to torture or have had similar traumatic experiences. The competence of the personnel, often medical and psycho-social teams, is strengthened through seminars, courses and informal networking. However, there are no systematic training programmes. A few universities and colleges have included these issues in the education of physicians, psychologist, nurses and social welfare officers. A governmental investigation on psychiatric care shall submit its proposals for strengthening the Government's support for rehabilitation of refugees and immigrants with severe mental and physical problems. That report is due during the last quarter of this year.

Article 16

16. The information provided in the initial report (para. 107) still applies since the new Aliens Act contains provisions of corresponding character. According to the present provisions (chapter 6, section 2), an alien may be detained as follows:

> "An alien aged 16 or over may be detained
>
> 1. if his identity is unclear on arrival in Sweden or, when he subsequently applies for a residence permit and cannot establish the probability of his stated identity being correct and his right of entry or abode in Sweden cannot be assessed in spite of this uncertainty, or
>
> 2. this is necessary in order for an investigation of his right of remaining in Sweden to be feasible, or
>
> 3. it is probable that he will be refused entry or expelled pursuant to chapter 4, sections 1-3 or 11, or the question arises of enforcing a refusal of entry or expulsion order.
>
> Detention orders under subsection 1 (3) may only be issued if the personal circumstances of the alien or other circumstances give cause for fearing that he will conceal himself or engage in criminal activities in Sweden."

17. The time-limit for detention pursuant to chapter 6, section 4, is 48 hours. An alien may not otherwise be detained for more than two weeks, unless there are strong grounds for a longer period. If a refusal of entry or expulsion order has been made, however, an alien may be detained for up to two months, unless there are strong grounds for a longer period. (chapter 6, section 4).

18. The text regarding detention of children (chapter 6, section 3) reads as follows:

> "An alien under 16 may not be detained unless it is probable that he will be refused entry or expelled pursuant to chapter 4, sections 1-3 or 11 or the question arises of enforcing a refusal of entry or expulsion order and
>
> 1. there is an obvious risk that he will otherwise conceal himself, thereby jeopardizing an impending enforcement which ought not be delayed, or
>
> 2. there is reason to suppose that he will otherwise engage in criminal activities in Sweden.
>
> An alien under 16 may not be detained if it is sufficient for him to be kept under supervision as provided in section 5 (2).
>
> If a child under 16 would be separated from his custodian or, if there is more than one custodian, from one of them as a result of the custodian or the child being detained, this measure may only be taken if there are exceptional grounds for doing so."

The Government is at present considering a revision of the Act concerning a further limitation of the possibility of detaining a child under the age of 16. The general principle should be that a child may not be detained.

19. The information in paragraph 108 (the 1986 Act concerning Disciplinary Offences committed by Members of the Armed Forces) of the initial report still applies.

20. The Act of 1966 concerning institutional psychiatric care referred to in paragraph 113 of the initial report has been repealed. Two new Acts (a) the Act concerning Psychiatric Compulsory Care and (b) the Act concerning Forensic Psychiatric Care came into force on 1 January 1992. The major change in these Acts is a time-limit for compulsory care which is subject to judicial control. These provisions have strengthened the possibility of protecting the rights of the individual.

21. A new Act concerning protection against communicable diseases entered into force on 1 July 1989 about which the Committee was duly informed (CAT/C/SR.10, para. 7). The new Act does not differ substantially from the old legislation. The Government is at present investigating the possibility of supplementing the present legislation with the aim of protecting the patient's rights in connection with compulsory isolation under the Communicable Disease Act.

22. A new Act containing Special Provisions Relating to the Care of Young Persons came into force on 1 July 1990, when the previous Act, passed in 1980, was repealed (CAT/C/5/Add.1, paras. 117-118). The purpose of the new Act is to extend the possibility of providing care at an earlier stage, inter alia, in cases of young people who, as a result of drug abuse, criminal behaviour, etc., expose their own health or development to serious risk. The new Act

does not contain any changes for the protection of the individual's rights under the Convention against Torture.

23. A new Act concerning the Treatment of Misusers in Certain Cases came into force on 1 January 1989 when the previous Act, passed in 1981, was repealed (CAT/C/5/Add.1, para. 119). Compared with the earlier provisions, the new Act has in several respects expanded the facilities for compulsory care in connection with serious alcohol or drug abuse. Thus, it sanctions intervention at an earlier stage of abuse. In addition, the maximum duration of compulsory care under this Act has been extended to six months. The Act applies not only to abusers of alcohol and narcotics but also to abusers of volatile solvents. The necessary conditions for compulsory treatment under this Act are, inter alia, that the misuser either seriously endangers his own physical or mental health or is running an obvious risk of ruining his life.

II. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

24. The information requested by the Committee during its consideration of Sweden's initial report has been presented under the relevant articles of the Convention under part I of this supplementary report.

25. List of annexes: 1/

Annex 1: Aliens Act (1989:529)
Aliens Ordinance (1989:547) as amended on 1 October 1990

Annex 2: The Act on Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (1988:870)

Annex 3: Social Services Act (1980:620)
and Care of Young Persons (1990:52)

Annex 4: The Communicable Diseases Act (1988:1472)

1/ The annexes, when received from the Government of Sweden, can be consulted in the files of the secretariat, Centre for Human Rights.